



**DEPARTMENT OF THE NAVY**  
**CHIEF OF NAVAL PERSONNEL**  
**WASHINGTON, D.C. 20370-5000**

1640  
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2 Jul 03

From: Deputy Chief of Naval Personnel  
To: Distribution

Subj: MANDATORY SUPERVISED RELEASE (MSR)

Ref: (a) DODI 1325.7 of 17 Jul 01  
(b) Clemency and Parole Boards Mandatory Supervised Release Guidance of May 03  
(c) SECNAVINST 5815.3H of 5 Oct 93  
(d) SECNAVINST 1640.9B of 2 Dec 96

Encl: (1) Violent and Sexual Offenses List  
(2) Prisoner's Acknowledgement of Mandatory Supervised Release Briefing  
(3) Mandatory Supervised Release Policy for Inclusion in Prisoner Rules and Regulations

1. Purpose. To implement mandatory supervised release (MSR) at Navy shore brigs as required by references (a) and (b).

2. Background

a. Supervised release of prisoners who are not granted parole prior to their minimum release date (MRD) is a highly effective technique to provide an orderly transition to civilian life and to better protect communities into which such prisoners are released.

b. Through a Memorandum of Understanding between the Office of Probation and Pretrial Services of the Administrative Office of the United States Courts and the Department of Defense (DoD), the United States Probation Office provides assistance to military prisoners released from military confinement facilities through parole and supervised release. Prisoners released on MSR through good conduct time (GCT) credits are subject to supervision up to the full-term sentence imposed, when their sentence officially ends. Such provision is consistent with 18 U.S.C. §§ 4164 under which U.S. Code prisoners who are given early release through GCT credits are placed on supervision "as if on parole."

c. In accordance with reference (a), it is DoD policy to use supervised release in all cases except where determined by Service Clemency and Parole Boards (C&PBs) to be inappropriate. To promote uniformity within DoD, Service C&PBs established guidelines and procedures in reference (b).

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### 3. Discussion

#### a. Eligibility

(1) All prisoners who have an approved finding of guilty for any offense that occurred or was committed on or after 16 August 2001, and are not paroled are eligible for MSR.

(2) By reviewing court-martial orders, brig COs/OICs/CPOICs shall identify those prisoners who meet the above eligibility criteria and are therefore candidates for MSR.

(3) Prisoners who are returning to a military unit for action other than out-processing/appellate leave, i.e. for retention on active duty, for administrative discharge, etc., shall not be reviewed by the Service C&PB for MSR.

(4) Prisoners transferred from a DoD confinement facility to the Federal Bureau of Prisons fall exclusively under the U.S. Parole Commission for parole and MSR purposes.

#### b. Criteria for MSR Candidates

(1) When evaluating a sentence to determine how the following criteria applies to a specific prisoner, use the sentence approved by the convening authority (CA). If the CA has not yet taken action on the sentence, use the adjudged sentence.

(2) Prisoners whose approved sentence (or adjudged sentence in the case where the CA has not yet acted) to confinement is less than one year shall not be reviewed by the Service C&PB for MSR, but shall be reviewed by the brig CO/OIC/CPOIC. In the rare case where COs/OICs/CPOICs determine that MSR is appropriate, the recommendation shall be forwarded to the Service C&PB for decision.

(3) Pursuant to reference (c), the Service C&PB will consider whether MSR is appropriate when it conducts its annual review of the prisoner for clemency. Brigs shall submit MSR documentation only for prisoners described in paragraphs (a)-(c) below.

(a) Any prisoner with an approved sentence to confinement that is three years or longer.

(b) Any prisoner with an approved sentence to confinement less than three years, but is considered an appropriate MSR candidate by the brig CO/OIC/CPOIC or by the Service C&PB during a prior review of the prisoner's case.

(c) Any prisoner with an approved sentence to confinement of one year or longer who was convicted of a violent offense or a sexual offense per enclosure (1).

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(3) Prisoners, who are required to be reviewed by the Service C&PB for MSR, shall not be released at their MRD without first being considered and approved or disapproved for MSR in writing by the Service C&PB. Discussion of these cases with the C&PB by the most expedient means possible will be necessary.

c. Submission Guidelines

(1) A case file should be submitted on each candidate to be considered for MSR under paragraphs 3b above. The case file should be created in the same manner as a request for parole consideration. It should include an MSR Plan (letter of residence, letter of employment or employment assistance, promise of USPO assistance, acceptance into an educational or vocational program, and, if applicable, a letter documenting aftercare therapy, and a restitution plan). A prisoner's failure to prepare an acceptable MSR Plan could result in a Discipline and Adjustment (D&A) Board and loss of GCT or disciplinary action for failure to follow an order or dereliction of duty, thus delaying a candidate's release.

(2) A candidate's MSR Plan and case file shall be considered at the prisoner's last Disposition Board (e.g., parole review) before his/her MRD. Whenever possible, the brig should annotate a prisoner's last scheduled board in the confinement case file.

(3) Those candidates not scheduled for a Parole Review Disposition Board prior to MRD or who waive their last Disposition Board are still required to be reviewed for MSR by the Service C&PB. Brigs shall submit an MSR Plan and case file no later than three months prior to MRD, whenever possible.

d. Service C&PB Response Guidelines

(1) Service C&PBs have agreed to promptly review each MSR plan.

(2) If a candidate is approved for MSR, the Service C&PB shall fax the MSR certificate and mail the original certificate to the brig.

(3) If the Service C&PB should reject the MSR plan, the plan shall be returned to the submitting confinement facility for expeditious review, revision, and resubmission.

e. Brig Procedures

(1) Upon notification that a prisoner has been directed to MSR, the brig shall notify the prisoner and coordinate the MSR plan with the appropriate U.S. Probation Officer.

(2) The prisoner shall acknowledge by signature receipt of the terms and conditions of MSR.

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(3) If the prisoner refuses to acknowledge receipt, the notification shall be witnessed, certifying the prisoner was advised of the terms and conditions of MSR and that he/she was advised that departure of the prisoner from the brig constitutes acceptance of the terms and conditions of MSR.

#### 4. MSR Planning

a. Brig COs/OICs/CPOICs must recognize the need for early planning and intervention during the period of confinement to address and resolve problems in time for the offender's eventual release to the community and to ensure a smooth and successful transition from confinement. Failure to effectively develop and verify release plans for MSR candidates not only jeopardizes their reentry plans, but also places the community at substantial risk. The procedures listed below shall be followed when military prisoners are released from brig through supervised release.

b. Brigs have the responsibility to provide all pertinent information to the Service C&PB and hence the supervising probation officer that has an impact on the safe and effective re-entry and supervision of the offender. This information includes, but is not limited to, behavior in confinement, any information of medical, psychiatric, psychological, or substance abuse treatment, and other rehabilitation programs. Generally, a confidential release form does not need to be signed by the prisoner for dissemination of this information to the Service C&PB.

c. Suitable release plans are to be developed by the prisoner and submitted to appropriate brig staff, Service C&PB, and supervising probation officer well in advance of release (i.e., months in advance, where possible).

d. It is extremely important that the brig and supervising probation officer have ongoing communication early in the release process, since re-entry plans for these prisoners need careful consideration and verification before they can be successfully implemented. USPOs do not generally support cases where supervision does not last at least six months, so care must be taken to ensure justification in recommending any such cases for MSR.

e. During final release planning before a scheduled release directly to the community, the brig shall forward release-planning documentation to the district of supervision as early as possible, preferably no less than 60 days prior to release, but at least 30 days prior to release. If offenders have special needs, such as serious medical or mental health conditions or lack of residence or means of support, it is important that the brig make every effort to forward release planning documentation to the district of supervision well in advance of 30 days before release. This shall allow for more effective release planning between the brig and probation staff and successful reintegration of the offender into the community.

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f. To facilitate planning for serious medical and mental health conditions, the brig should call the receiving district as early as possible to discuss transitional planning to the community with the supervising probation officer. The brig shall then send the supervising probation officer, at a minimum, release planning documentation, pertinent medical documentation, sentencing computation sheet and, when applicable, any material required for transitional drug abuse treatment. The brig should also forward a copy of the court-martial order. Confidential release of information forms is not necessary to share mental health, medical, or drug/alcohol treatment information.

g. Successful reentry of offenders to the community depends on a variety of factors which generally include, but are not limited to: suitable residence and employment (or valid educational/vocational program); no contact with past victims (most often the case) or negative criminal influences; family and community support; and availability of treatment resources. Release planning that takes place in the district/community yields the higher probability of a complete and productive reintegration of the offender into the community. The supervising probation officer is tasked to make every effort to verify and implement the plan to address the offender's needs and conditions of supervision.

## 5. Policy

a. Brigs shall inform all prisoners who meet MSR eligibility criteria of DoD MSR requirements. All prisoners shall be briefed on MSR and acknowledge such MSR briefing by signature per use of enclosure (2). The signed copy of MSR acknowledgement shall be filed in the prisoner's confinement record.

b. All Navy shore brigs shall include provisions of MSR within Prisoner Rules and Regulations and ensure eligible prisoners are aware that departure of the prisoner from the brig constitutes acceptance of terms and conditions of MSR and that failure to prepare an acceptable MSR Plan could result in a D&A Board and loss of GCT or disciplinary action for failure to follow an order or dereliction of duty. MSR policy for inclusion into prisoner rules and regulations is provided as enclosure (3).


c. Based on a prisoner's request to voluntarily forfeit GCT in order to complete offense-specific treatment, PERS-84 has the authority to waive the use of MSR and approve the forfeiture of GCT. All such requests shall be forwarded to PERS-84 via the chain of command.

6. Applicability. This policy applies throughout the Navy corrections system and is applicable to all eligible prisoners, regardless of Service affiliation.

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7. Implementation. This policy shall be implemented immediately. Further, the above policies and guidelines shall be coordinated for inclusion in the next change to reference (c) and (d). As an interim measure, a file copy of this letter shall be retained with reference (c) and (d) as applicable.

8. Point of Contact. Further information is available from Mr. Tim Purcell, NAVPERSCOM (PERS-84B), at (901) 874-4452, DSN 882.



S. J. TOMASZESKI  
Rear Admiral, U.S. Navy

Distribution:

COMLANTFLT (N16)

NETC (N00JC)

COMPACFLT (N16)

All Navy shore brigs and PCFs

NPC (06L)

USMC (PSL Corrections)

OJAG (20)

Army C&P Board

Naval C&P Board

Air Force C&P Board

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Violent and Sexual Offenses List

<u>UCMJ Article</u>	<u>Description</u>
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Violent Offenses

Murder

118-A	Murder: premeditated
118-B	Murder: intent to kill/inflict great bodily harm
118-C	Murder: act dangerous to others
118-D	Murder: with specified offenses

Voluntary Manslaughter

119-A	Manslaughter: voluntary Negligent manslaughter
119-B1	Manslaughter: involuntary
119-B2	Manslaughter: involuntary with specified offenses
134-C9	Homicide: negligent

Kidnapping

134-S1	Kidnap-minor/not parent
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Robbery

122-A	Robbery: with firearm
122-B	Robbery: other cases
134-C5	Assault: intent to rob

Assault

090-A1	Assault: officer executing duty
091-A1	Assault: CWO
091-A2	Assault: superior NCO/PO
091-A3	Assault: other NCO/PO
124	Maiming
128-A	Assault: simple
128-B	Assault: by battery
128-C	Assault: commissioned officer
128-D	Assault: CWO
128-E	Assault: NCO or PO
128-F	Assault: military/civilian law enforcer
128-G	Assault: child under 16
128-H1	Assault: harm intended, firearm
128-H2	Assault: harm intended, other
128-J1	Assault: harm inflicted, firearm
128-J2	Assault: harm inflicted, other
134-C2	Assault: intent to murder
134-C3	Assault: intent to manslaughter
134-C7	Assault: intent to housebreak

Enclosure (1)

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134-C8 Assault: intent arson/burglary  
134-X1 Threat: bomb  
134-X2 Threat: communicate

Sexual Offenses

Rape w/adult

120-A Rape  
134-C4 Assault: intent to rape

Other sexual offenses w/adult

125-A Sodomy: force  
125-C Sodomy: other  
133-D Conduct unbecoming an officer: involving any  
sexually violent offense  
134-C1 Assault: indecent  
134-C6 Assault: intent to sodomize  
134-R2 Indecent exposure  
134-R5 indecent acts: with others  
134-Y2 assimilated crimes act  
134-Z other sexual offenses  
134Y2D Spec 3/DNA aca pander

Rape sodomy w/child

125-B1 Sodomy: child 12 to 16 yrs old  
125-B2 Sodomy: child under 12 yrs old  
134-R1 Indecent acts/liberties with child

Other sexual offenses w/child

120-B1 Carnal knowledge: child 12 to 16 yrs old  
120-B2 Carnal knowledge: child under 12 yrs old  
134-B6 Prostitution/with a minor  
134-R3 Indecent language to child under 16



Subj: ACKNOWLEDGEMENT OF MANDATORY SUPERVISED RELEASE (MSR)  
BRIEFING

1. Per DODI 1325.7, Administration of Military Correctional Facilities and Clemency and Parole Authority (July 17, 2001): If you are not approved for and/or you have not accepted parole, you may be reviewed by your Service Clemency and Parole Board (C&PB) for release at your Minimum Release Date under Mandatory Supervised Release (MSR). MSR is similar to parole. Prisoners released on MSR through good conduct time (GCT) credits are subject to supervision by a U.S. Probation Officer up to the full-term of the sentence imposed. Military prisoners transferred from a DoD confinement facility to the Federal Bureau of Prisons (FBOP) fall exclusively under the U.S. Parole Commission for parole and MSR.

2. If placed on MSR, you will be under the supervision of a U.S. Probation Officer with specific release conditions. You will remain on supervised release provided you comply with conditions of release. You will continue to receive an annual review by the facility you were released from and your Service C&PB. The Service C&PB may, at their discretion or upon request of the supervising probation officer, modify any terms or conditions of supervision or may terminate supervision entirely. Violations of MSR conditions may lead to revocation of MSR and possible return to confinement.

3. Information required to complete your MSR plan includes a letter of residence, letter of employment or employment assistance or acceptance into an educational or vocational program, letter documenting aftercare therapy, and, if applicable, a restitution plan. Obtaining this information in a timely manner will assist in your transition to MSR. These letters can be sent directly to the brig or can be sent to you and then delivered to the brig staff. They do not have to be notarized or in a special format. Failure to prepare an acceptable MSR Plan could result in a Discipline and Adjustment (D&A) Board and loss of GCT or disciplinary action for failure to follow an order or dereliction of duty, thus delaying your release or requiring you to serve your entire sentence (to your maximum release date) in confinement.

4. It is to your advantage to prepare yourself for release through good behavior, program participation, preparation of a viable release plan, and acceptance of parole if offered. In either parole or MSR, you will be under some sort of supervision upon release. Parole will be an earlier release from confinement than MSR.

5. I, \_\_\_\_\_, have been briefed and provided a copy of this document concerning MSR.

Prisoner signature: \_\_\_\_\_ Date: \_\_\_\_\_

Briefed and served by: \_\_\_\_\_ Date: \_\_\_\_\_

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Mandatory Supervised Release (MSR) Policy  
for Inclusion in  
Prisoner Rules and Regulations

1. Background

a. Supervised release of prisoners who are not granted parole prior to their minimum release date (MRD) is a highly effective technique to provide an orderly transition to civilian life for select released prisoners and to better protect the community.

b. Through Memorandum of Understanding between the Office of Probation and Pretrial Services of the Administrative Office of the United States Courts and the Department of Defense (DoD), the United States Probation Office provides assistance to military prisoners released from military confinement facilities through parole and supervised release. As such, prisoners released on MSR through good conduct time (GCT) credits are subject to mandatory supervision up to the full-term sentence imposed. Such provision is consistent with 18 U.S.C. §§ 4164 under which U.S. Code prisoners who are given early release through GCT credits are placed on supervision as if on parole.

c. Per Department of Defense Instruction (DODI) 1325.7, Administration of Military Correctional Facilities and Clemency and Parole Authority (July 17, 2001), it is DoD policy to use supervised release in all cases except where determined by Service Clemency and Parole Boards (C&PBs) to be inappropriate.

2. Eligibility

a. All prisoners who have an approved finding of guilty for any offense that occurred [or was committed] on or after 16 August 2001, and are not paroled, are eligible for MSR.

b. Brigs shall identify those prisoners who meet the above eligibility criteria and are therefore candidates for MSR.

c. Prisoners who are returning to a military unit for action other than out-processing/appellate leave, i.e. for retention on active duty, for administrative discharge, etc., shall not be reviewed by the Service C&PB for MSR.

d. Prisoners transferred from a DoD correctional facility to the Federal Bureau of Prisons fall exclusively under the U.S. Parole Commission for parole and MSR purposes.

3. MSR Planning

a. If you are not approved for and/or you have not accepted parole, you may be reviewed by your Service C&PB to be released at your MRD under MSR. All prisoners are potentially subject to parole supervision up to the full-term of the sentence imposed.

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b. If released on MSR, you will be under supervision of a U.S. Probation Officer with specific release conditions. You shall remain on supervised release provided you comply with conditions of release. You shall receive an annual review by the facility you were released from and your Service C&PB. The Service C&PB may, at their discretion or upon request of the supervising probation officer, modify any terms or conditions of supervision or may terminate supervision entirely. Violations of MSR conditions may lead to revocation of MSR and possible return to confinement.

c. Information required to complete a MSR plan includes a letter of residence, letter of employment or employment assistance or acceptance into an educational or vocational program, letter documenting aftercare therapy, and, if applicable, a restitution plan. Obtaining this information in a timely manner will assist in your transition to MSR. These letters can be sent directly to the brig or they can be sent to you and then delivered to the brig staff. They do not have to be notarized or in a special format. Failure to prepare an acceptable MSR Plan could result in a Discipline and Adjustment (D&A) Board and loss of GCT or disciplinary action for failure to follow an order or dereliction of duty, thus delaying your release or requiring you to serve your entire sentence (your maximum release date) in confinement.

d. MSR is similar to parole. It is to your advantage to prepare yourself for release through good behavior, program participation, preparation of a viable parole plan, and acceptance of parole, if offered. In either case, you may be under supervision upon release. Parole will be an earlier release from confinement than MSR.

e. When deemed applicable, your MSR Plan and case file shall be considered at your last Disposition Board before your MRD.

f. Prisoners not scheduled for a Disposition Board prior to their MRD or waive their last Disposition Board are still required to be reviewed for MSR by the Service C&PB. If you depart prior to the full expiration of your sentence, your departure will mean you accept the conditions of the MSR prescribed by the C&P Board. Brigs shall submit the MSR Plan and case file no later than three months prior to MRD, whenever possible.

g. Upon notification that you been directed MSR, the brig shall notify you, brief you on the terms and conditions of MSR, and coordinate the MSR Plan with the appropriate U.S. Probation Officer.